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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,205	02/28/2002	Michael L. Blomquist	9015.147US01	2150
23552	7590	10/28/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			HANNE, SARA M	
			ART UNIT	PAPER NUMBER
			2179	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/087,205	BLOMQUIST, MICHAEL L.
	Examiner	Art Unit
	Sara M Hanne	2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 2/28/02 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 8-13 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Malave et al., US Patent Application Publication 2002/0193679, priority 9/29/1999.

As in Claims 1 and 15, Malave et al. teaches a method comprising generating a user interface having a plurality of pages, one of the pages being a home page (Figures 17, 18, etc.), a data port (Fig. 1, ref. 26), memory for storing a banner retrieved from the dataport (device memory), retrieving a banner from memory (uploading to the page), and displaying the retrieved banner in the home page on a screen (top line of Figures 17, 18, etc.).

As in Claims 2 and 8, Malave et al. teaches retrieving a banner identifying the programmable pump as an insulin pump (Pump type).

As in Claims 3 and 9, Malave et al. teaches retrieving a banner containing information identifying the user of the programmable pump ("Charlie Dawson", Figure 14).

As in Claims 4 and 10, Malave et al. teaches retrieving a banner containing medical information specific to the user of the programmable pump (Figure 15).

As in Claims 5 and 11, Malave et al. teaches retrieving a banner identifying the caregiver for the user of the programmable pump (“Clinic”, Fig. 14 inputted by the user in Figure 9, par. 73).

As in Claims 6, 12 and 16, Malave et al. teaches two or more of the pages generated by the user interface are home pages (Figures 15-17), and retrieving a banner from memory (as in Fig. 15, “Current Pump Setup Martin Marimba”), includes retrieving two or more banners from memory, and displaying a banner one of the home pages and a banner on another of the home pages (banner in Fig. 16 different from Fig. 15, “Log Book ...”).

As in Claim 13, Malave et al. teaches a data port, the processor being configured to receive a banner through the data port and store the banner in memory (See rejection of Claims 1 and 15 *supra*).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malave et al., US Patent Application Publication 2002/0193679, and further in view of Estes et al., US Patent Application Publication 2003/0114836.

Malave et al. teaches a programmable pump in data communication with a computer (“programming and instructions may be transferred from the processing device to the medical device”, Pg.1, Par. 8), the computer programmed to receive a banner through an input device (keyboard of the processing device, Par. 75). While Malave et al. teaches a programmable pump in data communication with a computer, the computer programmed to receive a banner through an input device, they fail to show the downloading of the banner to the pump and loading the banner from memory onboard the programmable pump as recited in the claims. In the same field of the invention, Estes et al. teaches a programmable pump similar to that of Malave et al. In addition, Estes et al. further teaches the downloading of the banner to the pump (Par. 34) and loading the banner from memory onboard the programmable pump (Fig. 4). It would have been obvious to one of ordinary skill in the art, having the teachings of Malave et al. and Estes et al. before him at the time the invention was made, to modify the programmable pump in data communication with a computer, the computer programmed to receive a banner through an input device taught by Malave et al. to include the downloading of the banner to the pump and loading of the banner from the onboard memory of Estes et al., in order to obtain a downloaded banner displayed on the pump display. One would have been motivated to make such a combination because a portable display would have been obtained, as taught by Estes et al.

Conclusion

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach similar user interfaces for pumps and insulin devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara M Hanne whose telephone number is (571) 272-4135. The examiner can normally be reached on M-F 7:30am-4:00pm, off on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather R Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smh

BANHYNH
PRIMARY EXAMINER